

**U.S. District Court**  
**North Carolina Middle District (NCMD)**  
**CRIMINAL DOCKET FOR CASE #: 1:21-mj-00103-JEP All Defendants**  
***Internal Use Only***

Case title: USA v. DONOHOE  
Other court case number: 21-cr-175 (TJK) District of  
Columbia

Date Filed: 03/17/2021  
Date Terminated: 03/19/2021

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Assigned to: MAG/JUDGE JOI  
ELIZABETH PEAKE

**Defendant (1)**

**CHARLES DONOHOE**  
*TERMINATED: 03/19/2021*

represented by **LISA S. COSTNER**  
LISA S. COSTNER, P.A.  
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336-748-1885  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level**  
**(Terminated)**

None

**Complaints**

Rule 5 Arrest

**Disposition**

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**Plaintiff**

**USA**

represented by **ERIC L. IVERSON**  
U. S. ATTORNEY'S OFFICE – MDNC

101 S. EDGEWORTH ST., 4TH FLOOR  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: United States Attorney*

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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**TANNER L. KROEGER**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

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03/17/2021	<u>1</u>	6	<b>SEALED</b> FINANCIAL AFFIDAVIT by CHARLES DONOHOE. (Garrett, Kim) (Entered: 03/17/2021)
03/17/2021	<u>2</u>	7	ORDER appointing CJA Panel Attorney Lisa Costner for CHARLES DONOHOE. Signed by MAG/JUDGE JOI ELIZABETH PEAKE on 3/17/21. (Garrett, Kim) (Entered: 03/17/2021)
03/17/2021	<u>3</u>	8	<b>ORDER SCHEDULING DETENTION HEARING/PRELIMINARY EXAMINATION</b> as to CHARLES DONOHOE. Detention Hearing/Preliminary Examination set for 3/24/2021 03:00 PM in Winston-Salem Courtroom #1 before MAG/JUDGE JOI ELIZABETH PEAKE. Signed by MAG/JUDGE JOI ELIZABETH PEAKE on 3/17/21. (Garrett, Kim) (Entered: 03/17/2021)

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03/19/2021		23	Minute Entry for proceedings held before MAG/JUDGE JOI ELIZABETH PEAKE CR-1 WS:Status Conference as to CHARLES DONOHOE held on 3/19/2021. AUSA Tanner Kroeger. Attorney Lisa Costner present with defendant. The defendant elected to waive hearings in this district. Government made an oral motion to seal <u>6</u> Seal Brief. The Court instructed to file a motion to seal and a redacted copy of Sealed Brief if to remain under seal. Defendant to be transported in custody to the District of Columbia for further proceedings. Proceedings recorded. (Garrett, Kim) (Entered: 03/19/2021)
03/19/2021	<u>7</u>	25	WAIVER of Rule 5(c)(3) Hearing by CHARLES DONOHOE (Garrett, Kim) (Entered: 03/19/2021)
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03/19/2021		31	<b>TEXT ORDER</b> by MAG/JUDGE JOI ELIZABETH PEAKE on 3/19/21 granting <u>2</u> Motion to Unseal Document <u>6</u> SEALED Brief as to CHARLES DONOHOE (1). (Garrett, Kim) (Entered: 03/19/2021)
03/19/2021		33	Document unsealed as to CHARLES DONOHOE <u>6</u> SEALED Brief (Garrett, Kim) (Entered: 03/19/2021)

MIME-Version:1.0  
From:ECF@ncmd.uscourts.gov  
To:ecf@ncmd.uscourts.gov  
Bcc:  
--Case Participants: MAG/JUDGE JOI ELIZABETH PEAKE (allison\_bennett@ncmd.uscourts.gov, clarke\_martin@ncmd.uscourts.gov, jasmine\_johnson@ncmd.uscourts.gov, judge\_peake@ncmd.uscourts.gov, kevin\_todd@ncmd.uscourts.gov, kimberly\_garrett@ncmd.uscourts.gov, wanda\_williamson@ncmd.uscourts.gov)  
--Non Case Participants: Probation Office (duty@ncmp.uscourts.gov), U. S. Marshal's Office (ecf.usmsncm@usdoj.gov, jeannie.helms@usdoj.gov, jessica.williams2@usdoj.gov)  
--No Notice Sent:  
  
Message-Id:3374034@ncmd.uscourts.gov  
Subject:Activity in Case 1:21-mj-00103-JEP USA v. DONOHOE Arrest - Rule 5  
Content-Type: text/html

**U.S. District Court**

**North Carolina Middle District**

**Notice of Electronic Filing**

The following transaction was entered on 3/17/2021 at 4:36 PM EST and filed on 3/17/2021

**Case Name:** USA v. DONOHOE

**Case Number:** 1:21-mj-00103-JEP

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**Arrest (Rule 5) of CHARLES DONOHOE (Garrett, Kim)**

**1:21-mj-00103-JEP-1 Notice has been electronically mailed to:**

**1:21-mj-00103-JEP-1 Notice will not be electronically mailed to:**

MIME-Version:1.0

From:ECF@ncmd.uscourts.gov

To:ecf@ncmd.uscourts.gov

Bcc:

--Case Participants: LISA S. COSTNER (denisesullivan@triad.rr.com, emily@lisacostnerlaw.com, lisa@lisacostnerlaw.com), ERIC L. IVERSON (caseview.ecf@usdoj.gov, eric.iverson@usdoj.gov, jo.vereen@usdoj.gov, usancm.ecfcriminal@usdoj.gov), MAG/JUDGE JOI ELIZABETH PEAKE (allison\_bennett@ncmd.uscourts.gov, clarke\_martin@ncmd.uscourts.gov, jasmine\_johnson@ncmd.uscourts.gov, judge\_peake@ncmd.uscourts.gov, kevin\_todd@ncmd.uscourts.gov, kimberly\_garrett@ncmd.uscourts.gov, wanda\_williamson@ncmd.uscourts.gov)  
--Non Case Participants: Probation Office (duty@ncmp.uscourts.gov)  
--No Notice Sent:

Message-Id:3374161@ncmd.uscourts.gov

Subject:Activity in Case 1:21-mj-00103-JEP USA v. DONOHOE Initial Appearance - Rule 5

Content-Type: text/html

**U.S. District Court**

**North Carolina Middle District**

**Notice of Electronic Filing**

The following transaction was entered on 3/17/2021 at 7:09 PM EST and filed on 3/17/2021

**Case Name:** USA v. DONOHOE

**Case Number:** 1:21-mj-00103-JEP

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**Minute Entry for proceedings held before MAG/JUDGE JOI ELIZABETH PEAKE in CR-1 WS:INITIAL APPEARANCE IN RULE 5 PROCEEDINGS as to CHARLES DONOHOE held on 3/17/2021. AUSA Eric Iverson. Defendant advised of rights and charges. Defendant confirmed financial was correct and requested court appointed counsel. Attorney Lisa Costner present and appointed. This matter is continued until 3/19/21 at 3:30 pm in WS CR-1 for a Status Hearing. Government instructed to file by Friday morning a basis for the motion for detention. Proceedings recorded. (Garrett, Kim)**

**1:21-mj-00103-JEP-1 Notice has been electronically mailed to:**

ERIC L. IVERSON &nbsp; &nbsp; eric.iverson@usdoj.gov, CaseView.ECF@usdoj.gov, jo.vereen@usdoj.gov, USANCM.ecfcriminal@usdoj.gov

LISA S. COSTNER &nbsp; &nbsp; lisa@lisacostnerlaw.com, denisesullivan@triad.rr.com, emily@lisacostnerlaw.com

**1:21-mj-00103-JEP-1 Notice will not be electronically mailed to:**



March 17, 2021  
7:28 pm

Clerk, US District Court  
By: kg

WTT

CIA 23  
(Rev. 11/15)

# FINANCIAL AFFIDAVIT

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT, OR OTHER SERVICES WITHOUT PAYMENT OF FEE

IN THE UNITED STATES ☒ DISTRICT COURT ☐ COURT OF APPEALS ☐ OTHER (Specify below)

IN THE CASE OF \_\_\_\_\_  
v. \_\_\_\_\_  
\_\_\_\_\_

FOR \_\_\_\_\_  
AT \_\_\_\_\_

LOCATION NUMBER  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PERSON REPRESENTED (Show your full name)

Charles Donohoe  
122 Broad St  
Kernersville, NC 27284

CHARGE/OFFENSE (describe if applicable & check box)

DOB: 2-10-88

SSN: 143-86-2500 336-306-2329

☒ Felony  
☐ Misdemeanor

- 1 ☒ Defendant - Adult
- 2 ☐ Defendant - Juvenile
- 3 ☐ Appellant
- 4 ☐ Probation Violator
- 5 ☐ Supervised Release Violator
- 5 ☐ Habeas Petitioner
- 7 ☐ 2255 Petitioner
- 8 ☐ Material Witness
- 9 ☐ Other (Specify)

DOCKET NUMBERS  
Magistrate Judge  
District Court  
Court of Appeals

## ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

EMPLOYMENT	Are you now employed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Self-Employed
	Name and address of employer: <u>Brewer's Kettle, Kernersville, NC (4 mos)</u>
	IF YES, how much do you earn per month? \$ <u>1,200</u> IF NO, give month and year of last employment? _____ How much did you earn per month? \$ _____
	If married, is your spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
INCOME & ASSETS	IF YES, how much does your spouse earn per month? \$ _____ If you are a minor under age 21, what is the approximate monthly income of your parent(s) or guardian(s)? \$ _____
	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	IF YES, give the amount received and identify the sources \$ <u>280 month</u> <u>VA Disability</u>
	CASH Do you have any cash on hand or money in savings or checking accounts? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, total amount? \$ <u>1,000</u>
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	IF YES, give value and description for each \$ <u>15,000</u> <u>2013 F150 truck</u>

OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Separated or Divorced	Total No. of Dependents <u>1</u>	List persons you actually support and your relationship to them <u>3, 12, 40</u>
	DEBTS & MONTHLY BILLS (Rent, utilities, loans, charge accounts, etc.)	DESCRIPTION	TOTAL DEBT	MONTHLY PAYMENT
		<u>child support</u>	\$ <u>100</u>	\$ <u>100</u>
		<u>rent</u>	\$ <u>400</u>	\$ <u>400</u>
	<u>groceries</u>	\$ <u>50</u>	\$ <u>50</u>	
	<u>power</u>	\$ <u>150</u>	\$ <u>150</u>	

I certify under penalty of perjury that the foregoing is true and correct.

151 By affirmation in open court 3-17-2021  
SIGNATURE OF DEFENDANT (OR PERSON REPRESENTED) Date  
JP 3/17/2021

Case 1:21-mp-00063-EP Document 10 Filed 03/22/21 Page 7 of 33

March 17, 2021  
8:30 pm

Clerk, US District Court  
By: \_\_\_\_\_ kg \_\_\_\_\_

# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

CHARLES DONOHOE

*Defendant*

)  
)  
)  
)  
)

Case No. 1:21MJ103

## ORDER SCHEDULING A DETENTION HEARING

A detention hearing in this case is scheduled as follows:

Place: U.S. District Court 251 N. Main Street Winston-Salem, NC 27101	Courtroom No.: 1
	Date and Time: 3/24/2021 3:00 p.m.

**IT IS ORDERED:** Pending the hearing, the defendant is to be detained in the custody of the United States marshal or any other authorized officer. The custodian must bring the defendant to the hearing at the time, date, and place set forth above.

Date: 03/17/2021

  
Judge's signature

Joi Elizabeth Peake, United States Magistrate Judge

*Printed name and title*



UNITED STATES OF AMERICA )  
 )  
 v. ) 1:21mj103  
 )  
 CHARLES DONOHOE )

NOW COMES United States of America, by and through its attorney, Sandra J. Hairston, Acting United States Attorney for the Middle District of North Carolina, and gives notice to this Honorable Court of the appearance of Tanner Kroeger, Assistant United States Attorney, as attorney for the United States in the above-captioned matter. He is to be served with any electronic or manual filing in this case.

Respectfully submitted,

SANDRA J. HAIRSTON  
ACTING UNITED STATES ATTORNEY

S/ TANNER L. KROEGER

Case 1:21-mp-00003-HEP Document 10 Filed 03/29/21 Page 9 of 23

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and served via that system on the following CM/ECF participants:

Lisa Costner, Esq.

Respectfully submitted,

S/ TANNER L. KROEGER

Assistant United States Attorney

NYSB No. 5297015

United States Attorney's Office

Middle District of North Carolina

101 S. Edgeworth St., 4<sup>th</sup> Floor

Greensboro, NC 27401

Phone: 336/333-5351

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA                    )  
  )  
  )           1:21mj103  
  )  
v.   )  
  )  
CHARLES DONOHOE                            )

**NOTICE OF APPEARANCE**

NOW COMES United States of America, by and through its attorney,  
Sandra J. Hairston, Acting United States Attorney for the Middle District of  
North Carolina, and gives notice to this Honorable Court of the appearance of  
Stephen Inman, Assistant United States Attorney, as attorney for the United  
States in the above-captioned matter. He is to be served with any electronic or  
manual filing in this case.

This the 19th day of March, 2021.

Respectfully submitted,

SANDRA J. HAIRSTON  
ACTING UNITED STATES ATTORNEY

S/ STEPHEN T. INMAN  
Deputy Chief, Criminal Division  
Assistant United States Attorney  
NCSB No. 26913  
United States Attorney's Office  
Middle District of North Carolina  
101 S. Edgeworth St., 4<sup>th</sup> Floor  
Greensboro, NC 27401  
Phone: 336/333-5351

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and served via that system on the following CM/ECF participants:

Lisa Costner, Esq.

Respectfully submitted,

S/ STEPHEN T. INMAN

Deputy Chief, Criminal Division  
Assistant United States Attorney  
NCSB No. 26913  
United States Attorney's Office  
Middle District of North Carolina  
101 S. Edgeworth St., 4<sup>th</sup> Floor  
Greensboro, NC 27401  
Phone: 336/333-5351

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

United States of America	)	
	)	
v.	)	1:21mj103
	)	
Charles Donohoe	)	<b><u>FILED UNDER SEAL</u></b>

**MEMORANDUM IN SUPPORT OF PRE-TRIAL DETENTION**

NOW COMES the United States of America, by and through its attorney, Sandra J. Hairston, Acting United States Attorney for the Middle District of North Carolina, and submits the attached memorandum in support of pre-trial detention in the above-captioned case. The defendant made his initial appearance before this Court on March 17, 2021. The government moved for detention at that time, and, in response, the Court asked the government to file authority supporting the basis to make the motion. In short, the United States charged the defendant with a violation of Title 18, United States Code, Section 1361 – destruction of government property. That offense serves as a basis to bring the motion as both as an offense listed under Title 18, United States Code, Section 2332b(g)(5)(B) as well as a crime of violence under the Bail Reform Act. See 18 U.S.C. § 3142(f)(1)(A). In any event, the defendant's conduct shows he is a serious risk to obstruct justice, and therefore, a motion

for detention is appropriate. See 18 U.S.C. § 3142(f)(2)(B). The government asks the Court to proceed with a detention hearing.

### **PROCEDURAL HISTORY**

On March 10, 2021, a grand jury sitting in the District of Columbia charged Charles Donohoe and three others in a six-count indictment. Specifically, in Count One, the indictment charges Donohoe with a violation of Title 18, United States Code, Section 371; in Count Two with a violation of Title 18, United States Code, Sections 1512(c)(2) and 2; in Count Three with a violation of Title 18, United States Code, Sections 231(a)(3) and 2; in Count Four with a violation of Title 18, United States Code, Sections 1361<sup>1</sup> and 2; in Count Five with a violation of Title 18, United States Code, Section 1752(a)(1); and in Count Six, with a violation of Title 18, United States Code, Section 1752(a)(2).

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<sup>1</sup> Section 1361 contains both misdemeanor and felony penalty provisions. When “the damage or attempted damage to such property exceeds the sum of \$1,000,” then the statute provides for “imprisonment for not more than ten years.” 18 U.S.C. § 1361. If the damage is \$1,000, the term of imprisonment is limited to “not more than one year.” *Id.* The grand jury alleged, among other things, that Donohoe “willfully injure[d] and commit[ed] depredation against the property of the United States” in that Donohoe “aided and abetted others known and unknown to forcibly enter the Capitol and thereby caused damage to the building in an amount more than \$1,000.” Superseding Indictment (D.D.C. No. 21-CR-175-4 (Jan. 8, 2021)) at ¶ 74. As a result, he faces imprisonment on that charge, Count Four, of ten years.



The defendant was arrested on March 17, 2021, in the Middle District of North Carolina. He made his initial appearance in this district later that day. The government moved for detention, and the Court continued that hearing until March 24, 2021. During the initial appearance, the Court asked the government to provide supplemental authority as to the basis for the motion for detention.

### **FACTUAL SUMMARY**

The government incorporates by reference the facts as alleged in the superseding indictment.<sup>2</sup> *See* D.D.C. No. 21-CR-175-4 (Mar. 10, 2021).

### **ARGUMENT**

The government's motion for detention is properly before the Court. First, the offense charged in Count Four is enumerated under Title 18, United States Code, Section 2332b(g)(5)(B). In light of the applicable penalties, Count Four allows the government to move for detention. *See* 18 U.S.C. § 3142(f)(1)(A). Second, the offense charged in Count Four is a crime of violence under the Bail Reform Act, subjecting the defendant to a motion for detention. *See id.* Third, the defendant's conduct, as alleged in Count One and Count Two, demonstrates that the defendant poses a serious risk of obstructing

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<sup>2</sup> Because that superseding indictment remains under seal and the government refers to it at numerous times in this memorandum, the government has filed this memorandum under seal, as well.

justice if he were to be released. That conduct allows the government to move for detention. *See* 18 U.S.C. § 3142(f)(2)(B). To be sure, the Court need only agree with the government on one of the three bases for the motion. If the Court does, a detention hearing is in order.

**1. Count Four creates a rebuttable presumption of detention.**

The Bail Reform Act allows the government to move for detention when the case involves “an offense listed under Title 18, United States Code, Section 2332b(g)(5)(B)” or “a crime of violence.” 18 U.S.C. § 3142(f)(1)(A). Indeed, in either case, the statute creates a rebuttable presumption in favor of detention. *Id.*

*a. An offense listed under § 2332b(g)(5)(B).*

The Bail Reform Act allows for a motion for detention when there is probable cause to believe a defendant committed an offense listed in Title 18, United States Code, Section 2332b(g)(5)(B) for which a maximum term of imprisonment of ten years or more is prescribed. *See* 18 U.S.C. § 3142(f)(1)(A). In that scenario, the law provides a rebuttable presumption in favor of detention. *See* 18 U.S.C. § 3142(e)(3)(C).

Count Four charges the defendant with destruction of government property and aiding and abetting the same. The indictment further states that the damage to property at the Capitol was in an amount greater than \$1,000.

Pursuant to Title 18, United States Code, Section 1361, when damage to government property exceeds \$1,000, the penalty includes imprisonment of not more than ten years.

Section 2332b(g)(5)(B) enumerates § 1361 as a listed offense. Here, the defendant could receive a ten-year term of imprisonment for that count. Accordingly, a motion for detention is proper, and the defendant faces a rebuttable presumption that he should be detained.<sup>3</sup>

*b. A crime of violence under the Bail Reform Act.*

Under the Bail Reform Act, a crime of violence is, in relevant part, “an offense that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another.” 18 U.S.C. § 3156(a)(4)(A). A defendant may commit or aid and abet the commission of a crime of violence. *See, e.g., United States v. Richardson*, 948 F.3d 733, 741-42 (6th Cir. 2020) (finding “no distinction” between aiding and abetting and committing the substantive crime, and concluding that a defendant’s conviction for aiding and abetting Hobbs Act robbery “satisfies the elements clause”); *Steiner v. United States*, 940 F.3d 1282, 1293 (11th Cir. 2019).

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<sup>3</sup> Numerous cases from the district where these charges are pending against Donohoe have held the same. *See, e.g., United States v. Powell*, Case No. 21-mj-197 (D.D.C. Feb. 11, 2021); *see also United States v. Watkins*, Case No. 21-cr-28-3 (D.D.C. Feb. 26, 2021); *United States v. Bisignano*, Case No. 21-CR-36 (D.D.C. Feb. 26, 2021).

A defendant violates § 1361 if he “commits any depredation against any property of the United States.” Historically, “depredation” is “the act or an instance of robbing, plundering, or laying waste.” *United States v. Jenkins*, 554 F.2d 783, 8786 (6th Cir. 1977). The Sixth Circuit adapted its definition from *Deal v. United States*, 274 U.S. 277 (1927), which interpreted the meaning of the word in a post-office regulation. In doing so, the Supreme Court defined “depredation” to mean “the act of plundering; a robbing; a pillaging.” *Id.* at 283 (quoting Century Dictionary). Plundering, robbing, or pillaging – that is, in a word, depredation – necessarily involves a defendant’s use of force. *See United States v. Shi*, 525 F.3d 709, 721 (9th Cir. 2008) (discussing piracy under 18 U.S.C. § 2280 by reference to *United States v. Smith*, 18 U.S. (5 Wheat.) 153, 161 (1820), which defined piracy as “robbery, or forcible depredations upon the sea”); *see also United States v. Dire*, 680 F. 3d 446, 452-59 (4th Cir. 2012) (discussing the history of piracy-as-depredation).

The government maintains that a violation of § 1361 is a crime of violence for the purposes of detention but acknowledges that the Fourth Circuit has granted a certificate of appealability on a related question. *See United States v. Melaku*, 799 F. App’x 203 (4th Cir. 2020) (unpublished) (allowing review of whether § 1361 is a “crime of violence” predicate supporting a

conviction under 18 U.S.C. § 924(c)). To be sure, in the case at bar, the Court need not reach this question if it finds another viable basis for the motion.

**2. The defendant's obstructionist conduct necessitates a detention hearing.**

Where a defendant poses “a serious risk that [he] will obstruct or attempt to obstruct justice,” the Court should conduct a detention hearing upon the government’s motion. 18 U.S.C. § 3142(f)(2)(B). Here, as alleged in the indictment, Donohoe instructed his co-conspirators to communicate by means of encrypted messaging to avoid law enforcement two days before the attack on the Capital. *See* Superseding Indictment at ¶ 39. He also destroyed prior communications for the same purpose. *Id.* Donohoe engaged in that conduct explicitly out of fear that he might be charged criminally. *Id.* at ¶ 40.

Despite the fear that he might be charged, the defendant nevertheless participated in the attack on the Capital on January 6, 2021. That conduct was, in its own right, obstructionist in nature – the defendant and others overran the United States Capital in an attempt to interfere with the election of a new president. After the fact, the defendant celebrated “[w]e stormed the capitol unarmed [...] And we took it over unarmed.” *Id.* at ¶ 24.

The defendant’s conduct demonstrates he poses a serious risk to obstruct or attempt to obstruct justice. *See United States v. Chrestman*, \_\_\_F. Supp. 3d\_\_\_, No. 21-MJ-218, 2021 WL 765662, at \*15 (D.D.C., Feb. 26, 2021)

(agreeing with a detention order where defendant participated in the January 6, 2021, attack on the Capital and where the government moved for detention, in part, pursuant to §3142(f)(2)(B)). As such, the Court should conduct a detention hearing.



## CONCLUSION

For the reasons stated above, the government moves the Court to hold a detention hearing in this matter.<sup>4</sup>

This the 19th day of March, 2021.

Respectfully submitted,

SANDRA J. HAIRSTON  
ACTING UNITED STATES ATTORNEY

S/ STEPHEN T. INMAN  
Deputy Chief, Criminal Division  
Assistant United States Attorney  
NCSB No. 26913

S/ TANNER L. KROEGER  
Assistant United States Attorney  
NYSB No. 5297015  
United States Attorney's Office  
Middle District of North Carolina  
101 S. Edgeworth St., 4<sup>th</sup> Floor  
Greensboro, NC 27401  
Phone: 336/333-5351

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<sup>4</sup> The government understood the Court's request for briefing at this juncture to be a request for the legal basis supporting a motion by the government for detention. As to the substance of that motion—*i.e.*, whether the Court should grant it—the government will further supplement this briefing at a later date as necessary to provide the Court with argument on the factors listed in § 3142(g).

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, the foregoing was electronically filed under seal with the Clerk of the Court using the CM/ECF system, and served via that system on the following CM/ECF participants:

Lisa Costner, Esq.

Respectfully submitted,

S/ TANNER L. KROEGER

Assistant United States Attorney

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--Case Participants: STEPHEN THOMAS INMAN (caseview.ecf@usdoj.gov, shaquitta.johnson@usdoj.gov, stephen.inman@usdoj.gov, usancm.ecfcriminal@usdoj.gov), TANNER L. KROEGER (caseview.ecf@usdoj.gov, laurie.lochner@usdoj.gov, shaquitta.johnson@usdoj.gov, tanner.kroeger@usdoj.gov, usancm.ecfcriminal@usdoj.gov), LISA S. COSTNER (denisesullivan@triad.rr.com, emily@lisacostnerlaw.com, lisa@lisacostnerlaw.com), ERIC L. IVERSON (caseview.ecf@usdoj.gov, eric.iverson@usdoj.gov, jo.vereen@usdoj.gov, usancm.ecfcriminal@usdoj.gov), MAG/JUDGE JOI ELIZABETH PEAKE (allison\_bennett@ncmd.uscourts.gov, clarke\_martin@ncmd.uscourts.gov, jasmine\_johnson@ncmd.uscourts.gov, judge\_peake@ncmd.uscourts.gov, kevin\_todd@ncmd.uscourts.gov, kimberly\_garrett@ncmd.uscourts.gov, wanda\_williamson@ncmd.uscourts.gov)  
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Subject:Activity in Case 1:21-mj-00103-JEP USA v. DONOHOE Status Conference  
Content-Type: text/html

**U.S. District Court**

**North Carolina Middle District**

**Notice of Electronic Filing**

The following transaction was entered on 3/19/2021 at 4:22 PM EST and filed on 3/19/2021

**Case Name:** USA v. DONOHOE  
**Case Number:** 1:21-mj-00103-JEP  
**Filer:**  
**Document Number:** No document attached

**Docket Text:**

**Minute Entry for proceedings held before MAG/JUDGE JOI ELIZABETH PEAKE CR-1 WS:Status Conference as to CHARLES DONOHOE held on 3/19/2021. AUSA Tanner Kroeger. Attorney Lisa Costner present with defendant. The defendant elected to waive hearings in this district. Government made an oral motion to seal [6] Seal Brief. The Court instructed to file a motion to seal and a redacted copy of Sealed Brief if to remain under seal. Defendant to be transported in custody to the District of Columbia for further proceedings. Proceedings recorded. (Garrett, Kim)**

**1:21-mj-00103-JEP-1 Notice has been electronically mailed to:**

ERIC L. IVERSON &nbsp; &nbsp; eric.iverson@usdoj.gov, CaseView.ECF@usdoj.gov, jo.vereen@usdoj.gov, USANCM.ecfcriminal@usdoj.gov

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laurie.lochner@usdoj.gov, shaquitta.johnson@usdoj.gov, usancm.ecfcriminal@usdoj.gov

**1:21-mj-00103-JEP-1 Notice will not be electronically mailed to:**

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

CHARLES DONOHOE

Defendant

Case No. 1:21MJ103

Charging District's Case No. 21CR175

WAIVER OF RULE 5 & 5.1 HEARINGS  
(Complaint or Indictment)

I understand that I have been charged in another district, the (name of other court) United States District Court  
for the District of Columbia

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing to determine whether there is probable cause to believe that an offense has been committed, to be held within 14 days of my first appearance if I am in custody and 21 days otherwise, unless I have been indicted beforehand.
- (5) a hearing on any motion by the government for detention;
- (6) request a transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☐ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☒ an identity hearing, production of the judgment, warrant, and warrant application, and any preliminary or detention hearing to which I may be entitled in this district. I request that my preliminary hearing and/or detention hearing be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: 03/19/2021

Defendant's signature

Signature of defendant's attorney

Printed name of defendant's attorney

March 19, 2021  
4:25 pm

Clerk, US District Court  
By: kg

# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

CHARLES DONOHOE

*Defendant*

Case No. 1:21MJ103

Charging District's

Case No. 21CR175

## COMMITMENT TO ANOTHER DISTRICT

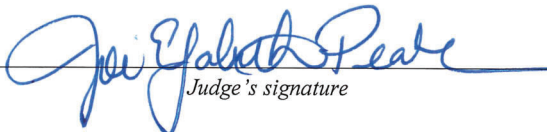
The defendant has been ordered to appear in the \_\_\_\_\_ District of Columbia,  
(if applicable) \_\_\_\_\_ division. The defendant may need an interpreter for this language:  
\_\_\_\_\_.

The defendant: ☐ will retain an attorney.  
☒ is requesting court-appointed counsel.

The defendant remains in custody after the initial appearance.

**IT IS ORDERED:** The United States marshal must transport the defendant, together with a copy of this order, to the charging district and deliver the defendant to the United States marshal for that district, or to another officer authorized to receive the defendant. The marshal or officer in the charging district should immediately notify the United States attorney and the clerk of court for that district of the defendant's arrival so that further proceedings may be promptly scheduled. The clerk of this district must promptly transmit the papers and any bail to the charging district.

Date: 03/19/2021

  
Judge's signature

Joi Elizabeth Peake, United States Magistrate Judge

*Printed name and title*



United States of America )  
 )  
 v. ) 1:21mj103  
 )  
 Charles Donohoe )

NOW COMES United States of America, by and through its attorney, Sandra J. Hairston, Acting United States Attorney for the Middle District of North Carolina, and moves to unseal its memorandum in support of pre-trial detention. See Dkt. 6. The government filed that document under seal because it referenced factual allegations made in the superseding indictment. At the time of the filing, the superseding indictment was sealed by the United States District Court for the District of Columbia. That court has since unsealed the

charging document. Accordingly, the government asks this Court to unseal its memorandum in support of pre-trial detention filed at Dkt. 6 in the above-captioned case.

This the 19th day of March, 2021.

Respectfully submitted,

SANDRA J. HAIRSTON  
ACTING UNITED STATES ATTORNEY

S/ TANNER L. KROEGER  
Assistant United States Attorney  
NYSB No. 5297015  
United States Attorney's Office  
Middle District of North Carolina  
101 S. Edgeworth St., 4<sup>th</sup> Floor  
Greensboro, NC 27401  
Phone: 336/333-5351

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and served via that system on the following CM/ECF participants:

Lisa Costner, Esq.

Respectfully submitted,

S/ TANNER L. KROEGER

Assistant United States Attorney

NYSB No. 5297015

United States Attorney's Office

Middle District of North Carolina

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--Case Participants: LISA S. COSTNER (denisesullivan@triad.rr.com, emily@lisacostnerlaw.com, lisa@lisacostnerlaw.com), STEPHEN THOMAS INMAN (caseview.ecf@usdoj.gov, shaquitta.johnson@usdoj.gov, stephen.inman@usdoj.gov, usancm.ecfcriminal@usdoj.gov), ERIC L. IVERSON (caseview.ecf@usdoj.gov, eric.iverson@usdoj.gov, jo.vereen@usdoj.gov, usancm.ecfcriminal@usdoj.gov), TANNER L. KROEGER (caseview.ecf@usdoj.gov, laurie.lochner@usdoj.gov, shaquitta.johnson@usdoj.gov, tanner.kroeger@usdoj.gov, usancm.ecfcriminal@usdoj.gov), MAG/JUDGE JOI ELIZABETH PEAKE (allison\_bennett@ncmd.uscourts.gov, clarke\_martin@ncmd.uscourts.gov, jasmine\_johnson@ncmd.uscourts.gov, judge\_peake@ncmd.uscourts.gov, kevin\_todd@ncmd.uscourts.gov, kimberly\_garrett@ncmd.uscourts.gov, wanda\_williamson@ncmd.uscourts.gov)  
--Non Case Participants: Joshua Stauffer (joshua\_stauffer@ncmp.uscourts.gov)  
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**U.S. District Court**

## North Carolina Middle District

## Notice of Electronic Filing

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**Case Name:** USA v. DONOHOE

**Case Number:** 1:21-mj-00103-JEP

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**TEXT ORDER by MAG/JUDGE JOI ELIZABETH PEAKE on 3/19/21 granting [9] Motion to Unseal Document [6] SEALED Brief as to CHARLES DONOHOE (1). (Garrett, Kim)**

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